

EXHIBIT A

<p style="text-align: right;">34</p> <p>1 M. ESTRADA</p> <p>2 Q So you knew in going to Philadelphia that</p> <p>3 this was going to be a change?</p> <p>4 A Yes.</p> <p>5 Q Under your experience at United, you say,</p> <p>6 "Investigation of third-party auto accidents and</p> <p>7 resolving claims made against the insured's policy,</p> <p>8 negotiate settlement with third parties once</p> <p>9 coverage and liability have been determined."</p> <p>10 That's what you were doing at United</p> <p>11 Auto Insurance Company?</p> <p>12 A Yes.</p> <p>13 Q And what, if anything, about that</p> <p>14 experience did you believe was going to be helpful</p> <p>15 at Philadelphia?</p> <p>16 A Handling the claims, the auto accidents.</p> <p>17 Q Why?</p> <p>18 A Because I had -- because of the experience</p> <p>19 I got in doing that with United Auto.</p> <p>20 Q So the experience negotiating settlements?</p> <p>21 A Yes.</p> <p>22 Q And when you were investigating and</p> <p>23 resolving claims at United Auto Insurance Company,</p> <p>24 how did you go about that process?</p> <p>25 A I'm sorry?</p>	<p style="text-align: right;">36</p> <p>1 M. ESTRADA</p> <p>2 claims.</p> <p>3 Q When you say "Fast Track," what does that</p> <p>4 mean?</p> <p>5 A Simple claims. Easy claims that, you</p> <p>6 know, insured backed into a parked vehicle. Nothing</p> <p>7 that -- that involves a lot of investigation. Who</p> <p>8 ran a red light. Anything like that.</p> <p>9 Q When you got the job at Philadelphia, who</p> <p>10 did you work for; who was your immediate boss?</p> <p>11 A Mona Born.</p> <p>12 Q And were there other claims examiners that</p> <p>13 worked for Mona?</p> <p>14 A Yes.</p> <p>15 Q Who were they?</p> <p>16 A Craig Olleck, Vicky Manning. I think she</p> <p>17 was transitioning from an admin person to an</p> <p>18 adjuster at that time when I started.</p> <p>19 Q Anybody else?</p> <p>20 A Marvel Webb. And I believe Shakelia Hayes</p> <p>21 came shortly after I did.</p> <p>22 Q Did you handle any claims involving rental</p> <p>23 cars?</p> <p>24 A Not that I can recall. Rent a cars being</p> <p>25 damaged?</p>
<p style="text-align: right;">35</p> <p>1 M. ESTRADA</p> <p>2 Q At United Auto, how did you go about that</p> <p>3 process?</p> <p>4 A I'm sorry. What was the process?</p> <p>5 Q How did you go about the process of</p> <p>6 investigating and resolving claims?</p> <p>7 A Oh. I would contact both parties, the</p> <p>8 claimant and insured, and get their statements on</p> <p>9 how the accident happened; the police report, if</p> <p>10 there is one, and make a liability decision. If</p> <p>11 there's coverage, then we would settle the claim.</p> <p>12 Q And you say "make a liability</p> <p>13 determination," what do you mean?</p> <p>14 A Deciding who's at fault.</p> <p>15 Usually, if there's a police report,</p> <p>16 we usually went by the police report.</p> <p>17 Q And then what would you do?</p> <p>18 A Get an appraiser out there to do an</p> <p>19 estimate on the damages, and pay the claim if</p> <p>20 liability was accepted.</p> <p>21 Q Now, when you applied for the job at</p> <p>22 Philadelphia, what, if anything, did you understand</p> <p>23 you would be doing?</p> <p>24 A Handling minor claims in like parking</p> <p>25 lots, just Fast Track simple claims. Non-injury</p>	<p style="text-align: right;">37</p> <p>1 M. ESTRADA</p> <p>2 Q Correct?</p> <p>3 A No, not that I recall.</p> <p>4 Q Was there anybody besides Mona who was</p> <p>5 responsible for supervising claims examiners in the</p> <p>6 Addison office?</p> <p>7 A Yeah. Rodger Terry.</p> <p>8 Q And did he supervise a different group of</p> <p>9 people?</p> <p>10 A Correct.</p> <p>11 Q And did that group have responsibility for</p> <p>12 handling damage to rental cars?</p> <p>13 A Yes.</p> <p>14 Q What state or states were you responsible</p> <p>15 for?</p> <p>16 A There was quite a few of them. I don't</p> <p>17 recall them all. It's been awhile.</p> <p>18 Q Well, can you recall any of them?</p> <p>19 A Yeah. There was Colorado, I believe.</p> <p>20 California, Florida, Washington. New Mexico, I</p> <p>21 think. That's all I can recall right now.</p> <p>22 Q Now, did you understand that when you</p> <p>23 started working for Philadelphia that you would also</p> <p>24 be responsible for investigating claims?</p> <p>25 A Yes.</p>

<p style="text-align: right;">38</p> <p>1 M. ESTRADA</p> <p>2 Q And you would also be responsible for</p> <p>3 talking to the insured?</p> <p>4 A Yes.</p> <p>5 Q And you would also be responsible for</p> <p>6 making a determination as to liability?</p> <p>7 A Yes.</p> <p>8 Q And you'd also be responsible for getting</p> <p>9 an appraiser -- an appraisal, if one needed to be</p> <p>10 gotten?</p> <p>11 A Yes.</p> <p>12 Q Are you familiar with the concept of</p> <p>13 comparative negligence?</p> <p>14 A Yes.</p> <p>15 Q And what does that mean in terms of</p> <p>16 resolving automobile claims?</p> <p>17 A Um, usually it's if both parties played</p> <p>18 some part of the accident, you would determine,</p> <p>19 percentage-wise, who was more at fault and who was</p> <p>20 less at fault. And I guess a percentage of the</p> <p>21 damages would be paid, as opposed to a hundred</p> <p>22 percent of it.</p> <p>23 Q And were you responsible for determining</p> <p>24 percentages in comparative negligence jurisdictions?</p> <p>25 A Um, if I had some.</p>	<p style="text-align: right;">40</p> <p>1 M. ESTRADA</p> <p>2 Q And you were licensed in Florida; is that</p> <p>3 right?</p> <p>4 A Correct.</p> <p>5 Q Why?</p> <p>6 A I don't know. They told us to get</p> <p>7 licensed in Florida.</p> <p>8 Q Can you handle claims in Florida without a</p> <p>9 license?</p> <p>10 A Not that I'm aware of, no.</p> <p>11 Q Did any of the other jurisdictions that</p> <p>12 you were responsible for require a license?</p> <p>13 A Not that I'm aware of.</p> <p>14 Q Now, in terms of Rodger Terry's team, they</p> <p>15 were responsible for different states; is that</p> <p>16 correct?</p> <p>17 A Yes.</p> <p>18 Q And do you know what states those were?</p> <p>19 A No.</p> <p>20 Q And of the states that Rodger Terry's team</p> <p>21 was responsible for, which of those states required</p> <p>22 licenses?</p> <p>23 A I have no idea.</p> <p>24 Q Which of those states had comparative</p> <p>25 negligence statutes?</p>
<p style="text-align: right;">39</p> <p>1 M. ESTRADA</p> <p>2 Q Well, which of the jurisdictions that you</p> <p>3 were responsible for were comparative negligence</p> <p>4 jurisdictions?</p> <p>5 A I don't recall.</p> <p>6 Q But you're aware that some of them were?</p> <p>7 A Yes.</p> <p>8 Q Okay. And as to the ones that were part</p> <p>9 of your duties and responsibilities, were one, to</p> <p>10 determine that it was a comparative negligence</p> <p>11 jurisdiction; correct?</p> <p>12 A Yes.</p> <p>13 Q And then once you determined that it was a</p> <p>14 comparative jurisdiction, then you would have to</p> <p>15 apportion percentages of fault; correct?</p> <p>16 A Yes.</p> <p>17 Q And that would impact how much ultimately</p> <p>18 would get paid; correct?</p> <p>19 A Yes.</p> <p>20 Q Okay. Now, going back to the</p> <p>21 jurisdictions that you were responsible for, was</p> <p>22 Texas one of them?</p> <p>23 A No.</p> <p>24 Q Florida was one of them?</p> <p>25 A Yes.</p>	<p style="text-align: right;">41</p> <p>1 M. ESTRADA</p> <p>2 A I have no idea. I really don't know which</p> <p>3 states they handled.</p> <p>4 Q Did you have to take a test to get</p> <p>5 licensed in Florida?</p> <p>6 A In Florida, no.</p> <p>7 Q You said you're also licensed in Texas?</p> <p>8 A Mm-hmm.</p> <p>9 Q I'm sorry. You have to answer yes or no.</p> <p>10 A Yes, I'm sorry.</p> <p>11 Q Do you have to take a test to get licensed</p> <p>12 in Texas?</p> <p>13 A Yes.</p> <p>14 Q And what kinds of things were you tested</p> <p>15 on?</p> <p>16 A It's been so many years ago. I can't</p> <p>17 remember what -- about coverage. You know, there</p> <p>18 had to be coverage in order for there to be a claim,</p> <p>19 and just different questions.</p> <p>20 Q And we'll get back to coverage in a</p> <p>21 minute. But you mentioned that one of the</p> <p>22 jurisdictions that you were responsible for was</p> <p>23 California?</p> <p>24 A Yes.</p> <p>25 Q Did you have to be trained in California?</p>

<p style="text-align: right;">54</p> <p>1 M. ESTRADA</p> <p>2 So if you went into Image Right, you</p> <p>3 would see if a new claim had been assigned to you?</p> <p>4 A Yes.</p> <p>5 Q And do you know what -- what criteria was</p> <p>6 used in determining who would get a particular</p> <p>7 claim?</p> <p>8 A If it was a simple claim, it would go to</p> <p>9 Fast Track. If it had bodily injury, it would go to</p> <p>10 a different group. Just depending on what group</p> <p>11 handles which types of accidents.</p> <p>12 Q Within the groups, though, do you know who</p> <p>13 decided which claims examiner got what claim?</p> <p>14 A No.</p> <p>15 Q And at least with regard to claims that</p> <p>16 you got, you never got claims for rental car damage;</p> <p>17 correct?</p> <p>18 A Correct.</p> <p>19 Q And no Grundy claims; you've never heard</p> <p>20 of that?</p> <p>21 A Yeah.</p> <p>22 Q And the claims that you got were limited</p> <p>23 to certain jurisdictions?</p> <p>24 A Yes.</p> <p>25 Q And your testimony is that you did or did</p>	<p style="text-align: right;">56</p> <p>1 M. ESTRADA</p> <p>2 A Correct.</p> <p>3 Q And why was that important?</p> <p>4 A Because I only handle specific states.</p> <p>5 Q And within the states that you handled,</p> <p>6 did it make a difference what state the claim</p> <p>7 occurred in?</p> <p>8 A I'm sorry. I don't understand your</p> <p>9 question.</p> <p>10 Q If it fell within one of the states that</p> <p>11 you were responsible for, what, if anything, did you</p> <p>12 need to know about the law in that state for</p> <p>13 insurance?</p> <p>14 A Oh, I guess what laws that they had for</p> <p>15 traffic accidents or -- the traffic laws.</p> <p>16 Q And that was something that you would look</p> <p>17 up?</p> <p>18 A Yes. Sometimes. When I needed to.</p> <p>19 Q Okay. And why would you be looking that</p> <p>20 up?</p> <p>21 A It depends on the accident. You know, if</p> <p>22 it was something that I wasn't sure of, you know,</p> <p>23 who was at fault, we'd look up the -- I guess the</p> <p>24 driving handbook and see what it -- for that state</p> <p>25 and see what it says about that particular scenario.</p>
<p style="text-align: right;">55</p> <p>1 M. ESTRADA</p> <p>2 not have responsibility for claims in Texas?</p> <p>3 A Did not.</p> <p>4 Q Did not.</p> <p>5 So when you would get a new claim,</p> <p>6 what is the first thing that you would do?</p> <p>7 A I would open it up and see what state it</p> <p>8 was in, just to confirm that it was one that my --</p> <p>9 Q That it was what?</p> <p>10 A -- group handled.</p> <p>11 Oh, to confirm that it was one that I</p> <p>12 should be handling.</p> <p>13 If there was any bodily injury on it,</p> <p>14 I'd send it to my supervisor to send back to home</p> <p>15 office to be reassigned.</p> <p>16 Q Okay. So you would open up the claim.</p> <p>17 And what would you see when you opened it up?</p> <p>18 A A Cord (ph) form. And it would give you</p> <p>19 the insurance information, the claim date, the city,</p> <p>20 state, location of where the accident happened.</p> <p>21 Give a description of the accident.</p> <p>22 Q Now, you said you looked to see what state</p> <p>23 it was in.</p> <p>24 Was that what state the accident</p> <p>25 happened in or --</p>	<p style="text-align: right;">57</p> <p>1 M. ESTRADA</p> <p>2 Q So you would determine -- if you felt</p> <p>3 unsure, you would determine whether you needed to</p> <p>4 consult the driving handbook for a particular state?</p> <p>5 A Right.</p> <p>6 Q And what would you be looking for in the</p> <p>7 driving handbook?</p> <p>8 A For that scenario.</p> <p>9 Q When you say "for that scenario," can you</p> <p>10 explain to me what you mean?</p> <p>11 A Honestly, um, I can't think of an example.</p> <p>12 Q Were you looking to see if it was a</p> <p>13 comparative negligence state?</p> <p>14 A No. No. Looking to see if -- it hardly</p> <p>15 ever happened to me. That was something extremely</p> <p>16 rare, but sometimes you weren't sure if the party</p> <p>17 was at fault, because some states are different as</p> <p>18 far as their lines or -- I don't know. It's just --</p> <p>19 I'm trying to think of an example. I'm sorry. You</p> <p>20 got me at a blank right now.</p> <p>21 Q So one of the things that you had to do</p> <p>22 initially when you would get a new claim is you had</p> <p>23 to determine who was at fault; is that right?</p> <p>24 A Yes. Yes. One of the things, yes.</p> <p>25 Q Okay. So one of the things. And so in</p>

<p style="text-align: right;">58</p> <p>1 M. ESTRADA</p> <p>2 order to do that, there were times when you might</p> <p>3 not be familiar with the law in a particular state</p> <p>4 and you had to go look it up to see who would be --</p> <p>5 who's liable in the situation that you're presented</p> <p>6 with?</p> <p>7 A On rare occasion. I mean, normally it was</p> <p>8 parking lot accidents. Insured backed into a parked</p> <p>9 car.</p> <p>10 Q So normally you knew?</p> <p>11 A Yeah. Yeah. Because it was in Fast</p> <p>12 Track. I mean, it was mostly quick claims that --</p> <p>13 simple accidents.</p> <p>14 Q Okay. But there were times when you</p> <p>15 didn't know; is that right?</p> <p>16 A There were occasions, yeah, that a claim</p> <p>17 would come up. If I wasn't sure, I would usually</p> <p>18 ask my supervisor. She's more knowledgeable and</p> <p>19 more experienced.</p> <p>20 Q But you could ask your supervisor or you</p> <p>21 could consult the driving manual --</p> <p>22 A Yes.</p> <p>23 Q -- for the particular state; correct?</p> <p>24 A Yes.</p> <p>25 Q And that was a decision that you made,</p>	<p style="text-align: right;">60</p> <p>1 M. ESTRADA</p> <p>2 A Correct.</p> <p>3 Q And most times the damage was small?</p> <p>4 A Yes.</p> <p>5 Q Is that right?</p> <p>6 And part of what you had to determine</p> <p>7 is how much the damage was; correct?</p> <p>8 A No. The appraiser would do that.</p> <p>9 Q Well, in every situation, were you</p> <p>10 supposed to get an appraiser?</p> <p>11 A Absolutely.</p> <p>12 Q Even if it was under \$2,000?</p> <p>13 A Absolutely.</p> <p>14 Q And so it's your testimony here today that</p> <p>15 you always got an appraiser?</p> <p>16 A I always got an estimate.</p> <p>17 Q You always got an estimate?</p> <p>18 A Yeah. If it was under a couple of</p> <p>19 thousand, then we were allowed to have the insured</p> <p>20 or the claimant get an estimate from a local body</p> <p>21 shop.</p> <p>22 Q Okay. So the claim comes in. You would</p> <p>23 check to see if there was coverage; correct?</p> <p>24 A Yes.</p> <p>25 Q Okay. And then you would check to see if</p>
<p style="text-align: right;">59</p> <p>1 M. ESTRADA</p> <p>2 right?</p> <p>3 A Yes.</p> <p>4 Q Now, you were talking about the types of</p> <p>5 accidents.</p> <p>6 Most of the accidents that you</p> <p>7 handled were accidents that were worth about how</p> <p>8 much money?</p> <p>9 A A couple thousand; three, four, 5,000.</p> <p>10 Q Small, right?</p> <p>11 A Yes.</p> <p>12 Q Okay. Can you give me a sense of what</p> <p>13 kinds of things you'd be handling?</p> <p>14 A As?</p> <p>15 Q You said a parking lot accident.</p> <p>16 Somebody --</p> <p>17 A Insured backed into a parked vehicle. Um,</p> <p>18 normally we hit a parked car.</p> <p>19 Q So normally either your person hit a</p> <p>20 parked car or somebody hit your insured?</p> <p>21 A Correct.</p> <p>22 Q Or how about if somebody broke into a car?</p> <p>23 A Yes.</p> <p>24 Q So there'd be -- it all centered on damage</p> <p>25 to the car?</p>	<p style="text-align: right;">61</p> <p>1 M. ESTRADA</p> <p>2 there was liability?</p> <p>3 A Yes.</p> <p>4 Q Okay. And then you said that -- would you</p> <p>5 call the insured?</p> <p>6 A Yes.</p> <p>7 Q And why were you calling the insured?</p> <p>8 A To get the statement from the driver on</p> <p>9 what happened. Usually, they say I backed into a</p> <p>10 vehicle. You know, whatever happened in the</p> <p>11 accident.</p> <p>12 Q Did you ever have situations where the</p> <p>13 insured said it wasn't their fault?</p> <p>14 A Yes.</p> <p>15 Q And how often would that happen?</p> <p>16 A On occasion.</p> <p>17 Q And what happened; what were you supposed</p> <p>18 to do then?</p> <p>19 A I'd talk to the claimant and see their</p> <p>20 side of the story. A lot of times there's a police</p> <p>21 report, which we would go by that, the police</p> <p>22 report. Being that it was a commercial insurance, a</p> <p>23 lot of the companies made sure that the drivers</p> <p>24 always got a police report, so that was really</p> <p>25 helpful.</p>

<p style="text-align: right;">62</p> <p>1 M. ESTRADA</p> <p>2 Q Okay. So you would talk to your insured;</p> <p>3 if your insured said it wasn't their fault, then you</p> <p>4 might reach out and talk to the other party?</p> <p>5 A Yeah.</p> <p>6 Q And what would you do if there was a</p> <p>7 disagreement between two parties about what</p> <p>8 happened?</p> <p>9 A Conflicting statements and there's no</p> <p>10 independent witnesses, then we would side with our</p> <p>11 insured.</p> <p>12 Q Okay. And you made the decision to side</p> <p>13 with your insured?</p> <p>14 A That's just something we're supposed to</p> <p>15 do.</p> <p>16 Q Well, did you ever have any situations</p> <p>17 where you felt that the person, the non-insured, had</p> <p>18 the more credible story?</p> <p>19 A No. If there's conflicting statements and</p> <p>20 no evidence to confirm that my insured was at fault,</p> <p>21 I would side with my insured.</p> <p>22 Q Now, when you say "no evidence," what kind</p> <p>23 of evidence?</p> <p>24 A Witnesses. If the damages didn't support</p> <p>25 what the insured claimed.</p>	<p style="text-align: right;">64</p> <p>1 M. ESTRADA</p> <p>2 A If the police report says this person was</p> <p>3 at fault, which a lot of times it does.</p> <p>4 Q So you would follow the police report?</p> <p>5 A Correct.</p> <p>6 Q So if you have conflicting statements,</p> <p>7 then you would ask whether there was a police</p> <p>8 report?</p> <p>9 A No. I'd ask that regardless.</p> <p>10 Q Okay. So you always ask for the police</p> <p>11 report?</p> <p>12 A If there's a police report.</p> <p>13 Q Okay. You said that you would ask if</p> <p>14 there had been independent witnesses. Who would you</p> <p>15 ask that question of?</p> <p>16 A Both the insured and the claimant.</p> <p>17 Q And what happens if there are independent</p> <p>18 witnesses?</p> <p>19 A I would contact them and see what they</p> <p>20 saw.</p> <p>21 Q Okay. So then you'd talk to the</p> <p>22 independent witnesses?</p> <p>23 A Correct.</p> <p>24 Q So who decides in that situation if the --</p> <p>25 once you talked to the independent witness, what do</p>
<p style="text-align: right;">63</p> <p>1 M. ESTRADA</p> <p>2 Q So if you have conflicting statements,</p> <p>3 then you'd have to determine whether or not there's</p> <p>4 other evidence; is that right?</p> <p>5 A Well, hopefully by then, you know, you</p> <p>6 know all the evidence.</p> <p>7 Q But you would -- I assume you have to get</p> <p>8 the evidence or look for the evidence; correct?</p> <p>9 A Yeah. As in evidence, was there any</p> <p>10 witnesses.</p> <p>11 Q Okay.</p> <p>12 A Independent witness.</p> <p>13 Q And how would you find out if there was</p> <p>14 any witnesses?</p> <p>15 A Asking both the driver and the claimant if</p> <p>16 there were any independent witnesses. Was there a</p> <p>17 police report done. If none exists, then I would</p> <p>18 side with my insured, if the statements were</p> <p>19 conflicting.</p> <p>20 Q Okay. Let's go one step at a time then.</p> <p>21 So if there's a police report, what</p> <p>22 would you do?</p> <p>23 A I'd go by the police report.</p> <p>24 Q You say you'd go by the police report.</p> <p>25 What does that mean?</p>	<p style="text-align: right;">65</p> <p>1 M. ESTRADA</p> <p>2 you do then?</p> <p>3 A Whichever they corroborate whose story,</p> <p>4 that's who I go with.</p> <p>5 If the witness says the insured</p> <p>6 backed into the claimant's car, then -- and the</p> <p>7 claimant is saying that the insured backed into his</p> <p>8 car, you got two people saying the same thing, then</p> <p>9 that's what you go with.</p> <p>10 Q So you'd make a judgment that if two</p> <p>11 people --</p> <p>12 A Versus the one, correct.</p> <p>13 Q And that in your judgment is you believe</p> <p>14 the two people?</p> <p>15 A Yes.</p> <p>16 Q Okay. Now, you said before that sometimes</p> <p>17 the damage didn't support the determination.</p> <p>18 A Didn't support the --</p> <p>19 Q The story. Okay. Yeah, what do you mean</p> <p>20 by that?</p> <p>21 A Just, I've had people, like -- I had an</p> <p>22 insured that was parked and she said somebody backed</p> <p>23 into her car, but then she's claiming damages to the</p> <p>24 front of the vehicle.</p> <p>25 The other side is like, well, I mean,</p>

<p style="text-align: right;">66</p> <p>1 M. ESTRADA</p> <p>2 you can tell where the car was backed into, but</p> <p>3 you're claiming these damages. It just -- it</p> <p>4 doesn't make sense.</p> <p>5 Q So in that situation you made a</p> <p>6 determination that the insured wasn't telling the</p> <p>7 truth?</p> <p>8 A Correct.</p> <p>9 Q Okay. And you would deny coverage based</p> <p>10 on that?</p> <p>11 A No. I wouldn't deny coverage. I wouldn't</p> <p>12 pay for the damages that didn't support --</p> <p>13 Q Okay. So then you'd have to decide which</p> <p>14 damages, if any, actually supported the claim?</p> <p>15 A Yeah. And the appraiser would usually</p> <p>16 tell us, "Well, they're trying to say this damage</p> <p>17 was also caused in that accident, but I don't</p> <p>18 believe that it could have been, judging by that."</p> <p>19 Because they're the ones -- the appraiser's the ones</p> <p>20 looking at the vehicle, and they can tell, you know,</p> <p>21 if a vehicle was hit, by their experience, and say,</p> <p>22 it's not possible to cause that other damage.</p> <p>23 Q So the appraiser comes back and tells you</p> <p>24 that the damage is in a place that does make sense,</p> <p>25 in terms of the story, and then you determine, okay,</p>	<p style="text-align: right;">68</p> <p>1 M. ESTRADA</p> <p>2 Mona?</p> <p>3 A The estimates amounts; how the accident</p> <p>4 happened; you know, what I believe to be how the</p> <p>5 accident happened. I would ask her what she</p> <p>6 thought.</p> <p>7 Q So you would go to Mona and say, this is</p> <p>8 what I believe happened, and would you tell her who</p> <p>9 you thought was at fault and how much and why?</p> <p>10 A Yes.</p> <p>11 Q So you'd make a recommendation to her?</p> <p>12 A Correct.</p> <p>13 Q Okay. And did she always adopt your</p> <p>14 recommendations?</p> <p>15 A No. No. Not always.</p> <p>16 Q And can you think of any examples, sitting</p> <p>17 here today, when she didn't accept your</p> <p>18 recommendation?</p> <p>19 A Um, it's not that she just flat out</p> <p>20 didn't. She just thought, well, it's not worth it.</p> <p>21 Just go ahead and pay the whole claim.</p> <p>22 Q And how many times did that happen?</p> <p>23 A I couldn't tell you.</p> <p>24 Q More than five?</p> <p>25 A Yes. I'm sure.</p>
<p style="text-align: right;">67</p> <p>1 M. ESTRADA</p> <p>2 I'm going to go with what the appraiser says?</p> <p>3 A Correct.</p> <p>4 Q Okay. Have you had situations where the</p> <p>5 claimant is more credible, tells a story that makes</p> <p>6 more sense than what your insured is telling you?</p> <p>7 A Not that I recall, no.</p> <p>8 Q Um, usually it's by, you know, police</p> <p>9 report, if there is one, but if -- the only time I</p> <p>10 would think that would happen if the damages that</p> <p>11 the insured's saying just didn't match, if it just</p> <p>12 didn't make sense like that, then, you know, yeah, I</p> <p>13 think the claimant probably would be more credible.</p> <p>14 Q And then you'd side with the claimant --</p> <p>15 A Yes.</p> <p>16 Q -- or you'd decide that the claimant was</p> <p>17 more credible?</p> <p>18 A Yes.</p> <p>19 Q Okay. Now, what if they both had some</p> <p>20 degree of fault; what did you do then?</p> <p>21 A I would usually ask Mona, see what she</p> <p>22 thought. See if she wanted comparative negligence</p> <p>23 on that.</p> <p>24 Q You say you usually ask Mona.</p> <p>25 What information would you bring to</p>	<p style="text-align: right;">69</p> <p>1 M. ESTRADA</p> <p>2 Q How many claims did you handle that were</p> <p>3 more than \$10,000?</p> <p>4 A Very few. But there were some, but not a</p> <p>5 whole lot.</p> <p>6 Q Now, once you talked to your insured the</p> <p>7 first time, how many other times would you talk to</p> <p>8 the insured?</p> <p>9 A If I had more questions. It really</p> <p>10 depends on -- on the -- depends on if there was any</p> <p>11 other questions, or if the claimants had something,</p> <p>12 I just wanted to confirm with the insured.</p> <p>13 Q So you might go back to the insured and</p> <p>14 say, "I spoke to the claimant. They're saying</p> <p>15 something different," and get the insured's view</p> <p>16 again?</p> <p>17 A Correct.</p> <p>18 Q Right. And would you ever talk to the</p> <p>19 insured about what you'd learn from third-party</p> <p>20 witnesses?</p> <p>21 A Yes.</p> <p>22 Q So part of your job was really to</p> <p>23 investigate what happened?</p> <p>24 A Yes. Yes.</p> <p>25 Q Are you familiar with the concept of</p>

<p style="text-align: right;">70</p> <p>1 M. ESTRADA</p> <p>2 betterment?</p> <p>3 A Yeah. Isn't that like when -- take a</p> <p>4 tire, you know, a tire. We're going to give</p> <p>5 somebody a brand new tire, but the tire that they</p> <p>6 had on their vehicle before was older, a lot older,</p> <p>7 wasn't new. So you would take betterment to be more</p> <p>8 even as to what they had.</p> <p>9 Q So you would reduce what you were going to</p> <p>10 pay them?</p> <p>11 A Yes.</p> <p>12 Q And did you?</p> <p>13 A The appraiser would do that.</p> <p>14 Q The appraiser would come to you with a</p> <p>15 recommendation about that?</p> <p>16 A It would be on their -- their estimate.</p> <p>17 Q And would you make a determination as to</p> <p>18 whether to go along with what the appraiser said, or</p> <p>19 not?</p> <p>20 A I always go along with what the appraiser</p> <p>21 says.</p> <p>22 Q I understand that you're saying that you</p> <p>23 always went along with it, but each time you decided</p> <p>24 whether to go along with it or not; correct?</p> <p>25 MS. COHEN: Objection. Asked and</p>	<p style="text-align: right;">72</p> <p>1 M. ESTRADA</p> <p>2 your opinion about some of their claims?</p> <p>3 A Well, not to -- to make the decision for</p> <p>4 them. Just to say, "Hey, you know, what do you</p> <p>5 think about this? I don't know if the insured's</p> <p>6 telling the truth." You know, just talking.</p> <p>7 Q So other claims examiners were trying to</p> <p>8 make a decision about a particular claim and they</p> <p>9 might come and ask you your opinion?</p> <p>10 A Yeah.</p> <p>11 Q And did you do the same thing?</p> <p>12 A Yeah.</p> <p>13 Q So if you were trying to make a decision</p> <p>14 about a particular claim, you might seek out the</p> <p>15 opinion of one of your claims examiners; is that</p> <p>16 right?</p> <p>17 A No. Just talking to them. Just to see</p> <p>18 what they think, you know.</p> <p>19 It wasn't to -- because I couldn't</p> <p>20 make the decision. Just, you know, "Hey, what do</p> <p>21 you think about this?"</p> <p>22 Q Because you felt that you could make the</p> <p>23 decision on any particular claim?</p> <p>24 A Yeah, usually, yes.</p> <p>25 Q Were there times when -- you said for some</p>
<p style="text-align: right;">71</p> <p>1 M. ESTRADA</p> <p>2 answered.</p> <p>3 THE WITNESS: I always go with what the</p> <p>4 estimate is.</p> <p>5 BY MS. BLOOM:</p> <p>6 Q So you made a decision to always go --</p> <p>7 A I was never told not to.</p> <p>8 Q Did anybody tell you to always go with the</p> <p>9 appraiser?</p> <p>10 A No.</p> <p>11 Q So that was something that you decided for</p> <p>12 yourself, because it made sense?</p> <p>13 A It's something we always did. We were</p> <p>14 never told otherwise.</p> <p>15 Q When you say, it's something that you</p> <p>16 always did, what knowledge, if any, do you have</p> <p>17 about how other claims examiners handled an</p> <p>18 appraiser report?</p> <p>19 A By talking to them.</p> <p>20 Q Are you -- when you say "by talking to</p> <p>21 them," what do you mean by that?</p> <p>22 A We talk to each other about claims that</p> <p>23 we've had; sometimes to get an opinion from them on</p> <p>24 what they thought about it.</p> <p>25 Q So other claims examiners would seek out</p>	<p style="text-align: right;">73</p> <p>1 M. ESTRADA</p> <p>2 claims where the damage was like under a couple</p> <p>3 thousand dollars, where the insured might go out and</p> <p>4 get their own appraisal; is that right?</p> <p>5 A Yes.</p> <p>6 Q Did you get an independent appraisal in</p> <p>7 those cases, also?</p> <p>8 A No.</p> <p>9 Q And did you always agree with what the</p> <p>10 insured's appraisal said?</p> <p>11 A Yeah. Pretty much. Unless there was some</p> <p>12 obvious, um -- you know, if -- if, um, the damages</p> <p>13 are claimed on the left side and then there's</p> <p>14 something on the right side that the estimate is</p> <p>15 willing to repair, then I would call the body shop</p> <p>16 and ask them, "How does that fit with the impact</p> <p>17 over here?"</p> <p>18 Q The impact on the other side?</p> <p>19 A Correct.</p> <p>20 Q And then you might decide to pay a lesser</p> <p>21 amount?</p> <p>22 A Yeah.</p> <p>23 Q And you'd make that decision?</p> <p>24 A No. No. I would usually ask Mona what</p> <p>25 she thought, because I'm really not that great with</p>

<p style="text-align: right;">74</p> <p>1 M. ESTRADA</p> <p>2 estimates.</p> <p>3 Q So you would go to Mona and you'd say,</p> <p>4 "I've investigated. This is what I found out. This</p> <p>5 is when I think we should do. What do you think?"</p> <p>6 A Yes.</p> <p>7 Q Okay. So you'd make a recommendation?</p> <p>8 A Yes.</p> <p>9 Q Now, when you were going through this</p> <p>10 process, would you keep notes of what you were</p> <p>11 doing?</p> <p>12 A If speaking to people. Depends what type</p> <p>13 of notes.</p> <p>14 Q Did you -- every time you talked to the</p> <p>15 insured, or a claimant, or an appraiser, did you</p> <p>16 make notes of that?</p> <p>17 A Yes.</p> <p>18 Q And where did you keep those notes?</p> <p>19 A In the Apps System.</p> <p>20 Q Okay. So you kept them electronically?</p> <p>21 A Correct.</p> <p>22 Q And you kept them as you went along?</p> <p>23 A Yes.</p> <p>24 Q When you talk about the Apps system, what</p> <p>25 is the Apps system?</p>	<p style="text-align: right;">76</p> <p>1 M. ESTRADA</p> <p>2 Q Okay. So you'd make the request and then</p> <p>3 it would go to home office and they'd pay it or not</p> <p>4 pay it?</p> <p>5 A Correct.</p> <p>6 Q So you could just make the request through</p> <p>7 the Apps System?</p> <p>8 A Yes.</p> <p>9 Q The Apps System didn't calculate how much</p> <p>10 any particular claim was worth, did it?</p> <p>11 A No.</p> <p>12 Q You didn't have any software that did</p> <p>13 that?</p> <p>14 A No.</p> <p>15 Q No, you had no software that did that?</p> <p>16 A Correct.</p> <p>17 Q Okay. It did not -- the Apps System did</p> <p>18 not put a value on any particular claim; is that</p> <p>19 right?</p> <p>20 A No.</p> <p>21 Q No, it did not?</p> <p>22 A It did not.</p> <p>23 Q Did you ever have any situations where an</p> <p>24 insured claimed that their car was totalled?</p> <p>25 Do you understand what I mean by</p>
<p style="text-align: right;">75</p> <p>1 M. ESTRADA</p> <p>2 A It's where the note system is. Been so</p> <p>3 long. What else does it have?</p> <p>4 You can, um, do letters and faxes</p> <p>5 from there. Well, some forms. Like a "request</p> <p>6 appraisers" and stuff from it.</p> <p>7 Q So you could type in your notes of a</p> <p>8 conversation that you had with a claimant, an</p> <p>9 insured or a witness?</p> <p>10 A Correct.</p> <p>11 Q Okay. And you could also -- what else</p> <p>12 could you do from it?</p> <p>13 A Generate like a cover fax sheet. You can</p> <p>14 generate and request for an independent appraiser.</p> <p>15 Q Like a form letter?</p> <p>16 A Yes. You could request payment from the</p> <p>17 Apps System.</p> <p>18 Q Meaning, you could say to the Apps System,</p> <p>19 I want you to issue a check for \$4,500 to this</p> <p>20 person?</p> <p>21 A Correct.</p> <p>22 Q And then a check would be issued?</p> <p>23 A It would go to home office. They would</p> <p>24 review and approve it, or whatever they needed to</p> <p>25 do.</p>	<p style="text-align: right;">77</p> <p>1 M. ESTRADA</p> <p>2 "totalled"?</p> <p>3 A Yes.</p> <p>4 Q Okay. What do I mean by "totalled"?</p> <p>5 A Where it would cost more to repair it than</p> <p>6 what the vehicle's actually worth, or a percentage</p> <p>7 of.</p> <p>8 Q And did you have claims like that?</p> <p>9 A Yes.</p> <p>10 Q And did you have to make a determination</p> <p>11 as to whether or not the car had actually been</p> <p>12 totalled?</p> <p>13 A The appraiser usually does that.</p> <p>14 They'll -- they'll -- different states have</p> <p>15 different requirements, as far as what percentage of</p> <p>16 the vehicle value before it can be considered a</p> <p>17 total loss.</p> <p>18 Q So you would figure out what state it was</p> <p>19 and then figure out what percentage of the vehicle</p> <p>20 value loss there needed to be?</p> <p>21 A No. Once -- depending on what state it</p> <p>22 is, I send an appraiser from that state to go and do</p> <p>23 an estimate on the vehicle.</p> <p>24 If their estimate for that state</p> <p>25 exceeds the total loss threshold, then they would</p>

<p style="text-align: right;">90</p> <p>1 M. ESTRADA</p> <p>2 efficient manner.</p> <p>3 MS. BLOOM: Okay. I hear you. I think</p> <p>4 the rules are really clear. I think if you</p> <p>5 have a question about what federal stip is,</p> <p>6 either you or her, you should read the rules.</p> <p>7 And my position is that under federal</p> <p>8 stip, she can only object to the form of the</p> <p>9 question, if she truly believes there's a</p> <p>10 problem with the form of the question.</p> <p>11 And so, to the extent anything other than</p> <p>12 that occurs, you know, clearly, if I think it's</p> <p>13 becoming intrusive, we'll take whatever action</p> <p>14 we need to.</p> <p>15 Do you have an objection to us continuing</p> <p>16 the deposition? And I would also ask that only</p> <p>17 one attorney speak on the record.</p> <p>18 MR. WILEY: Well, Miss Cohen will continue</p> <p>19 to defend the deposition. I certainly have no</p> <p>20 objection to continuing.</p> <p>21 BY MS. BLOOM:</p> <p>22 Q You had the authority -- is there</p> <p>23 something funny about that?</p> <p>24 A No.</p> <p>25 Q You had the authority to pay claims that</p>	<p style="text-align: right;">92</p> <p>1 M. ESTRADA</p> <p>2 thought you agreed with what your insured was</p> <p>3 telling you about how the accident happened;</p> <p>4 correct?</p> <p>5 A Yes.</p> <p>6 Q One of the things that you were evaluating</p> <p>7 as a claims examiner in the first instance was</p> <p>8 whether there was or was not actually coverage;</p> <p>9 correct?</p> <p>10 A Yes.</p> <p>11 Q And if there was coverage, whether there</p> <p>12 was liability; correct?</p> <p>13 First you would determine coverage,</p> <p>14 and then you'd have to determine if there was</p> <p>15 liability; is that right?</p> <p>16 A Correct. Correct.</p> <p>17 Q And if you determined that there was</p> <p>18 liability, then you'd have to determine the value of</p> <p>19 the claim; correct?</p> <p>20 A Right.</p> <p>21 Q And as part of that process, you would</p> <p>22 interview your insured, right?</p> <p>23 A Yes.</p> <p>24 Q If there was -- if there were witnesses,</p> <p>25 you would interview witnesses?</p>
<p style="text-align: right;">91</p> <p>1 M. ESTRADA</p> <p>2 were under \$10,000; is that right?</p> <p>3 A Yes.</p> <p>4 Q And you didn't have to discuss that with</p> <p>5 your supervisor; correct?</p> <p>6 A Correct.</p> <p>7 Q When you got an appraiser, did you ask for</p> <p>8 pictures of the property damage?</p> <p>9 A Yeah. They would always send pictures.</p> <p>10 Q Did you look at the pictures?</p> <p>11 A Yes. Sometimes.</p> <p>12 Q And in looking at the pictures, would</p> <p>13 you -- why would you be looking at the pictures?</p> <p>14 A To see where the damages are. See what</p> <p>15 damages were caused.</p> <p>16 Q And would you want to see where the damage</p> <p>17 was?</p> <p>18 A Yes.</p> <p>19 Q And would you want to compare that with</p> <p>20 what you were being told by your insured?</p> <p>21 A Correct.</p> <p>22 Q Why?</p> <p>23 A Just to make sure that it fit -- fit the</p> <p>24 statement of what happened.</p> <p>25 Q Okay. So to make sure that -- that you</p>	<p style="text-align: right;">93</p> <p>1 M. ESTRADA</p> <p>2 A Correct.</p> <p>3 Q And you would also interview a claimant if</p> <p>4 there was somebody other than your insured involved;</p> <p>5 correct?</p> <p>6 A Correct.</p> <p>7 MS. COHEN: Objection. Asked and</p> <p>8 answered.</p> <p>9 BY MS. BLOOM:</p> <p>10 Q And other than Miss Manning, you did not</p> <p>11 help any of the other claims examiners with their</p> <p>12 claims; is that right?</p> <p>13 A Correct.</p> <p>14 Q And with regard to the help that you gave</p> <p>15 Miss Manning, that help was limited to helping her</p> <p>16 find an independent appraiser; correct?</p> <p>17 A No. No. There was other times where I</p> <p>18 helped her with other things.</p> <p>19 Q Like what?</p> <p>20 A She, um, her liability. She kind of</p> <p>21 questioned herself sometimes. And I'd kind of just</p> <p>22 help her walk through it, how the accident happened,</p> <p>23 and she figures out that she was right to begin</p> <p>24 with.</p> <p>25 Q So she was trying to determine whether</p>

<p style="text-align: right;">94</p> <p>1 M. ESTRADA</p> <p>2 there was liability or not?</p> <p>3 A She just second-guessed herself, because</p> <p>4 she was new to being an adjuster, so she was really</p> <p>5 unsure. And it was more just to kind of reassure</p> <p>6 her that she's correct in how she's doing what she's</p> <p>7 doing.</p> <p>8 Q Okay. So she was making a decision about</p> <p>9 liability, and because she was new, she was unsure</p> <p>10 about that decision, so she was coming to you for</p> <p>11 your opinion?</p> <p>12 A Right.</p> <p>13 Q Did you ever disagree with her?</p> <p>14 A Not that I recall. She was real good</p> <p>15 about what she was doing.</p> <p>16 Q So you found her judgment to be sound?</p> <p>17 A Yes.</p> <p>18 Q Did you ever suggest to her that she seek</p> <p>19 Mona's put?</p> <p>20 A Oh, she used to seek Mona's input more.</p> <p>21 It's just that when Mona wasn't</p> <p>22 around that she would come and talk to me.</p> <p>23 Q Did you ever suggest to her that after</p> <p>24 she'd come and talk to you, that she should go and</p> <p>25 talk to Mona as well?</p>	<p style="text-align: right;">96</p> <p>1 M. ESTRADA</p> <p>2 watching what other people were doing?</p> <p>3 A None.</p> <p>4 MS. BLOOM: Can you mark this as two? And</p> <p>5 this as three.</p> <p>6 (Estrada-2, Complaint, was received and</p> <p>7 marked for identification at this time.)</p> <p>8 (Estrada-3, Answers to Interrogatories,</p> <p>9 was received and marked for identification at</p> <p>10 this time.)</p> <p>11 BY MS. BLOOM:</p> <p>12 Q I'm going to hand you what's been marked</p> <p>13 as Estrada-2 and ask if you recognize that as a copy</p> <p>14 of your complaint in this case?</p> <p>15 A Yes.</p> <p>16 Q And when you said that you had reviewed</p> <p>17 the petition, were you referring to the document</p> <p>18 that we have marked as Exhibit 2?</p> <p>19 A Yes.</p> <p>20 Q I'm going to hand you what's been marked</p> <p>21 as Estrada Exhibit 3 and ask you if that is a copy</p> <p>22 of your Answers to Interrogatories in this case?</p> <p>23 A Yes.</p> <p>24 Q You recall preparing the Answers to</p> <p>25 Interrogatories?</p>
<p style="text-align: right;">95</p> <p>1 M. ESTRADA</p> <p>2 A Yes.</p> <p>3 Q For what purpose?</p> <p>4 A Because it was unsure. I wasn't clear</p> <p>5 about it either.</p> <p>6 Q So you wanted to get some additional</p> <p>7 input?</p> <p>8 A Yeah. From my supervisor.</p> <p>9 Q So she would take a recommendation -- she</p> <p>10 would take her investigation and explain what she</p> <p>11 had done, make a recommendation, and see if Mona</p> <p>12 agreed?</p> <p>13 A Yes.</p> <p>14 Q And that was the same thing that you would</p> <p>15 do; correct?</p> <p>16 A Correct.</p> <p>17 Q Are there any other ways in which you</p> <p>18 assisted Vicky?</p> <p>19 A No.</p> <p>20 Q During the course of the day, how much of</p> <p>21 your time was spent handling claims?</p> <p>22 A The entire day.</p> <p>23 Q And so were you pretty busy?</p> <p>24 A Yes.</p> <p>25 Q What percent of your time did you spend</p>	<p style="text-align: right;">97</p> <p>1 M. ESTRADA</p> <p>2 A Yes.</p> <p>3 Q And what was the process that you went</p> <p>4 through in doing that?</p> <p>5 A In preparing the answers?</p> <p>6 Q Yes.</p> <p>7 A Just writing down what -- the answer to</p> <p>8 the questions.</p> <p>9 Q So somebody sent you the questions?</p> <p>10 A Yes.</p> <p>11 Q Would that be your attorneys?</p> <p>12 A Correct.</p> <p>13 Q And then you wrote in answers. Did you</p> <p>14 write them in hand or type them?</p> <p>15 A I think I did it on Word.</p> <p>16 Q And then sent it back?</p> <p>17 A And sent it back.</p> <p>18 Q Okay. And in looking at what's been</p> <p>19 marked as Exhibit 3, does this look like your</p> <p>20 Answers to Interrogatories?</p> <p>21 A Yes.</p> <p>22 Q Now, when you would make a notation in</p> <p>23 Apps on a claim, would that also have the date and</p> <p>24 time of the notation?</p> <p>25 A Yes.</p>

<p style="text-align: right;">138</p> <p>1 M. ESTRADA</p> <p>2 A Yes.</p> <p>3 Q And is number 4, is Roman Numeral IV the</p> <p>4 insured vehicle or not the insured vehicle?</p> <p>5 A Insured vehicle. IV. Instead of Roman</p> <p>6 Numeral IV, it's IV for "insured vehicle."</p> <p>7 Q And in this case, you made a decision not</p> <p>8 to assign an independent appraiser; is that right?</p> <p>9 A I don't know. I'd have to go through all</p> <p>10 the notes to see.</p> <p>11 Q Well, if you look down to 56091336 --</p> <p>12 A Okay.</p> <p>13 Q -- on the left, it says, "No appraiser</p> <p>14 will be assigned for Roman Numeral IV."</p> <p>15 A Okay.</p> <p>16 Q That reflects your decision not to get --</p> <p>17 A Yes.</p> <p>18 Q -- an independent appraisal?</p> <p>19 A Yes.</p> <p>20 Q And you made that decision based upon what</p> <p>21 you reviewed in the police report?</p> <p>22 A I'm sorry?</p> <p>23 Q And you made that decision based on what</p> <p>24 you reviewed in the police report?</p> <p>25 A No. There was a note that the insured</p>	<p style="text-align: right;">140</p> <p>1 M. ESTRADA</p> <p>2 Q But we don't see any indication as to why</p> <p>3 you got --</p> <p>4 A I don't put notes when I go and ask Mona</p> <p>5 for everything, otherwise the notes would be like</p> <p>6 horrendous.</p> <p>7 Q Based on what we see here, you made the</p> <p>8 determination not to send the appraiser because of</p> <p>9 what you were being told by the insured; correct?</p> <p>10 A Correct. Yeah. That he was abandoning</p> <p>11 the vehicle at the tow yard. We wouldn't be able to</p> <p>12 get access to it anyway, since we don't own the</p> <p>13 vehicle.</p> <p>14 Q If you can look at Exhibit-10, please.</p> <p>15 A Okay.</p> <p>16 Q These are more of your case notes;</p> <p>17 correct?</p> <p>18 A Correct.</p> <p>19 Q If you can look at 227091711?</p> <p>20 A Okay.</p> <p>21 Q You write, "Correct, which they will pay</p> <p>22 on their own, I think. Pretty much I am just</p> <p>23 negotiating for our insured."</p> <p>24 Those were your words reflecting what</p> <p>25 you were doing; correct?</p>
<p style="text-align: right;">139</p> <p>1 M. ESTRADA</p> <p>2 point of contact said the insured's driver got an</p> <p>3 attorney for workman's comp.</p> <p>4 I'm not sure why. I wasn't sure why</p> <p>5 he got an attorney.</p> <p>6 But the insured vehicle is at a tow</p> <p>7 lot and the insured is abandoning it.</p> <p>8 So he's not wanting that vehicle. I</p> <p>9 guess it's too old. So I'm not going to assign an</p> <p>10 appraiser to go out and look at a vehicle that the</p> <p>11 insured doesn't want, that he's abandoning --</p> <p>12 Q So you reviewed the facts and said this is</p> <p>13 not a situation where I should assign an appraiser?</p> <p>14 A From what the insured said, yes.</p> <p>15 Q Okay. So you made a judgment based on</p> <p>16 what the insured told you?</p> <p>17 MS. COHEN: Objection.</p> <p>18 Mischaracterization.</p> <p>19 THE WITNESS: Um, yes.</p> <p>20 BY MS. BLOOM:</p> <p>21 Q And did you get anyone's approval not to</p> <p>22 send out an appraiser before you made that decision?</p> <p>23 A I don't recall. I may have asked Mona</p> <p>24 just to make sure, and that's why I put a note like</p> <p>25 that in there.</p>	<p style="text-align: right;">141</p> <p>1 M. ESTRADA</p> <p>2 A Yes.</p> <p>3 Q So you wrote here that you were</p> <p>4 negotiating for your insured, right?</p> <p>5 A Yeah. For -- because they were wanting to</p> <p>6 get the rental back from the other party's</p> <p>7 insurance, and I was just helping the insured</p> <p>8 negotiate what they should get back.</p> <p>9 Q So you were negotiating for them?</p> <p>10 A Yes. On their behalf.</p> <p>11 Q Okay. So when you said that you didn't do</p> <p>12 any negotiating, you were excluding negotiating for</p> <p>13 your insured, like we see here in example 10 -- in</p> <p>14 Exhibit-10?</p> <p>15 A That's not my job function. I was just</p> <p>16 doing it as a favor for the insured.</p> <p>17 Q But at least in this one situation, you</p> <p>18 were actually negotiating?</p> <p>19 A Um, it wasn't really negotiating. I was</p> <p>20 just letting them know what the insured was out of</p> <p>21 and what they wanted back, as far as what they paid</p> <p>22 out on their rental, and what I thought was fair.</p> <p>23 Q Well, it doesn't say that here, does it?</p> <p>24 Right here it says, "I'm just negotiating for our</p> <p>25 insured." Correct?</p>

<p style="text-align: right;">142</p> <p>1 M. ESTRADA</p> <p>2 A Right. I don't sit there and type</p> <p>3 word-for-word on the notes. I just put enough to</p> <p>4 where I know what I was talking about in case there</p> <p>5 was any questions of it.</p> <p>6 Q And by saying you were negotiating, that</p> <p>7 gave you -- that gave you enough of a description</p> <p>8 about what you were doing; correct?</p> <p>9 A Yes.</p> <p>10 Q And if somebody else picked this up,</p> <p>11 presumably that would also describe for them what</p> <p>12 you were doing; correct?</p> <p>13 A Right. Correct.</p> <p>14 Q If you could go back to Exhibit-9, please.</p> <p>15 A Okay.</p> <p>16 Q The second page, right above 515091433 --</p> <p>17 A Okay.</p> <p>18 Q -- this -- you wrote, "Advise. We use a</p> <p>19 percentage for the salvage."</p> <p>20 What does "salvage" mean?</p> <p>21 A The salvage is the vehicle at its existing</p> <p>22 condition, damaged condition.</p> <p>23 Q Saying, "I am more than happy to take a</p> <p>24 look at what she has and negotiate it with her."</p> <p>25 So right here -- these are your</p>	<p style="text-align: right;">144</p> <p>1 M. ESTRADA</p> <p>2 Q The claimant. And you did negotiate it?</p> <p>3 A Yeah. Yes. Based off of what Mona said.</p> <p>4 Q You did the actual negotiation; correct?</p> <p>5 A I'm the one who notified them what we</p> <p>6 would pay, yes.</p> <p>7 Q It doesn't say here "and notify them what</p> <p>8 we will pay." It says negotiate and --</p> <p>9 A I don't put notes word-for-word. I'm</p> <p>10 sorry.</p> <p>11 Q But you chose the word "negotiate."</p> <p>12 Correct?</p> <p>13 A Yes.</p> <p>14 Q And that was based on -- and that was</p> <p>15 intended to give you a record of what it was that</p> <p>16 you had done; correct?</p> <p>17 A Yeah. Well, I didn't think of another</p> <p>18 word that I could use there.</p> <p>19 Q "Negotiate" best described what you were</p> <p>20 doing; correct?</p> <p>21 A Yeah. Yeah.</p> <p>22 MS. BLOOM: Okay. This would be a good</p> <p>23 time to break for lunch.</p> <p>24 MR. WILEY: Okay. Off the record.</p> <p>25 (A luncheon recess was taken from</p>
<p style="text-align: right;">143</p> <p>1 M. ESTRADA</p> <p>2 notes; correct?</p> <p>3 A Yes.</p> <p>4 Q And so in the example that we're looking</p> <p>5 at now in Exhibit-9, you were offering to negotiate</p> <p>6 the salvage value with one of your insureds; is that</p> <p>7 right?</p> <p>8 A Right. Which I went to Mona to see what</p> <p>9 they wanted to do with it, because that's something</p> <p>10 that the -- the salvage percentage is what --</p> <p>11 co-parts (sic) gives us a certain percentage for all</p> <p>12 salvages.</p> <p>13 Q But what you write here is that you will</p> <p>14 negotiate it with her, not Mona will negotiate it</p> <p>15 with her. These are your words, and your words were</p> <p>16 that you would negotiate it with her; correct?</p> <p>17 A Right. And I went to Mona and asked her</p> <p>18 what to do with it on it. But I'm the one who</p> <p>19 talked to her and let her know what we can do.</p> <p>20 Q So you looked at the situation; you</p> <p>21 evaluated the situation; you said that you would</p> <p>22 negotiate it with the insured --</p> <p>23 A Mm-hmm.</p> <p>24 Q -- and you negotiated --</p> <p>25 A The claimant.</p>	<p style="text-align: right;">145</p> <p>1 M. ESTRADA</p> <p>2 12:45 p.m. until 1:57 p.m.)</p> <p>3 BY MS. BLOOM:</p> <p>4 Q Can you look at Exhibit-3, please? Those</p> <p>5 are your Answers to Interrogatories.</p> <p>6 Before you open them, I just wanted</p> <p>7 to make sure I understood what you were telling me</p> <p>8 about your work space.</p> <p>9 You worked in a cubicle; is that</p> <p>10 right?</p> <p>11 A Correct.</p> <p>12 Q And it was your own individual cubicle;</p> <p>13 you didn't share it with anybody?</p> <p>14 A That's correct.</p> <p>15 Q And you had your own computer there?</p> <p>16 A Yes.</p> <p>17 Q And then did you get a work e-mail</p> <p>18 address?</p> <p>19 A Yes.</p> <p>20 Q And did you use your work e-mail address</p> <p>21 to send e-mails related to your work?</p> <p>22 A Yes.</p> <p>23 Q Did you ever use your work e-mail address</p> <p>24 to send personal e-mails?</p> <p>25 A A couple of times, yeah.</p>

<p style="text-align: right;">158</p> <p>1 M. ESTRADA</p> <p>2 Q Yes.</p> <p>3 A Just money I have.</p> <p>4 Q Who's paying for the deposition today, for</p> <p>5 the transcript?</p> <p>6 A My attorney's office.</p> <p>7 Q And you've given your attorneys no money</p> <p>8 to date?</p> <p>9 A Correct.</p> <p>10 Q Did anybody ever tell you to come in on a</p> <p>11 weekend?</p> <p>12 A No.</p> <p>13 Q Did anybody know you would come in on a</p> <p>14 weekend?</p> <p>15 A Yes.</p> <p>16 Q Who?</p> <p>17 A Mona, Vicky, Shakelia.</p> <p>18 Q How did Mona know?</p> <p>19 A She's seen me there.</p> <p>20 Q How many times?</p> <p>21 A I don't recall.</p> <p>22 Q When a claim is first opened, is there a</p> <p>23 reserve set for the claim?</p> <p>24 A Yes.</p> <p>25 Q Who sets the reserve?</p>	<p style="text-align: right;">160</p> <p>1 M. ESTRADA</p> <p>2 kind of get an idea of about what the amount is</p> <p>3 going to be as far as damages. You know, a parking</p> <p>4 lot accident isn't going to go over a couple of</p> <p>5 thousand.</p> <p>6 Q So it's something that after awhile you</p> <p>7 just know --</p> <p>8 A Yeah.</p> <p>9 Q -- intuitively?</p> <p>10 A You just kind of assume it's going to be</p> <p>11 close to what you had before.</p> <p>12 Q So your experience let's you -- gives you</p> <p>13 the judgment to know how much to assign to it; is</p> <p>14 that right?</p> <p>15 A Yeah.</p> <p>16 Q And then -- do you ever alter it again in</p> <p>17 the process before the claim is paid?</p> <p>18 A I never have.</p> <p>19 Q Did you ever look back to see whether your</p> <p>20 judgment had been close to what was actually paid?</p> <p>21 A No.</p> <p>22 Q Any sense of that?</p> <p>23 A No.</p> <p>24 Q When you would get an appraisal from a</p> <p>25 third-party appraiser and they would tell you what</p>
<p style="text-align: right;">159</p> <p>1 M. ESTRADA</p> <p>2 A I believe home office does.</p> <p>3 Q And then as you investigate the claim,</p> <p>4 you're supposed to re-evaluate whether the reserve</p> <p>5 is sufficient or not?</p> <p>6 A Correct.</p> <p>7 Q Is that right?</p> <p>8 And that's something that a claims</p> <p>9 examiner like you does; is that right?</p> <p>10 A Yes.</p> <p>11 Q And what factors do you consider in</p> <p>12 deciding whether the reserve is sufficient?</p> <p>13 A Based on how severe the accident was.</p> <p>14 Usually their reserve is \$777. It's a really low</p> <p>15 number. It always has to be changed.</p> <p>16 Q And you would be, for your claims, the</p> <p>17 person who decided how much to increase it?</p> <p>18 A Correct.</p> <p>19 Q And did you increase it in almost every</p> <p>20 situation?</p> <p>21 A Yeah. We had to increase it every time.</p> <p>22 Q And did you always increase it the same</p> <p>23 amount?</p> <p>24 A Sometimes. Really, it's based on previous</p> <p>25 claims that I might have had that were similar. You</p>	<p style="text-align: right;">161</p> <p>1 M. ESTRADA</p> <p>2 they thought the damage was, it was then up to you,</p> <p>3 if you were in a comparative negligence</p> <p>4 jurisdiction, to determine what percentage should be</p> <p>5 apportioned to each party, right?</p> <p>6 A Yeah.</p> <p>7 Q The appraiser did not do that; correct?</p> <p>8 A No.</p> <p>9 Q When you said that you took your calendar</p> <p>10 with you, what calendar are you talking about?</p> <p>11 A It's just a little black calendar for the</p> <p>12 year.</p> <p>13 Q What kind of information was on it?</p> <p>14 A How many claims I got in the day and, you</p> <p>15 know, if I was off, I'd mark it off for vacation.</p> <p>16 If Shakelia was off, I'd put down that she was going</p> <p>17 to be off that day, so I'd know to expect more</p> <p>18 claims that day than normal.</p> <p>19 Q Did you note if anybody else other than</p> <p>20 Shakelia was out?</p> <p>21 A Yeah. Everybody in the group.</p> <p>22 If I had prior notice that they were</p> <p>23 going to be out.</p> <p>24 (Estrada-12, Calendar excerpts, was</p> <p>25 received and marked for identification at this</p>

<p style="text-align: right;">178</p> <p>1 M. ESTRADA</p> <p>2 you used the job description for the claims examiner</p> <p>3 position to put together?</p> <p>4 A Or something that was on the Philly</p> <p>5 website that I saw.</p> <p>6 Q And then you revised it?</p> <p>7 A I made some minor changes to it, yes.</p> <p>8 Q Okay. Well, I'd like you first to look at</p> <p>9 Estrada Exhibit-14. And that is the job description</p> <p>10 for the claims examiner position that was on the</p> <p>11 website at the company?</p> <p>12 A Mm-hmm.</p> <p>13 Q You remember seeing that?</p> <p>14 A Yes.</p> <p>15 Q Yes, you're familiar with it?</p> <p>16 A I've seen it before.</p> <p>17 Q So I'd like to look together at Estrada</p> <p>18 Exhibit-11, your current resume, and the job</p> <p>19 description -- the defendant's job description for a</p> <p>20 claims examiner position. And focus your attention</p> <p>21 on the description of your position as a claims</p> <p>22 examiner for Philadelphia Indemnity Insurance</p> <p>23 Company. Okay?</p> <p>24 So starting with the first paragraph,</p> <p>25 where it says, "Primarily functions include</p>	<p style="text-align: right;">180</p> <p>1 M. ESTRADA</p> <p>2 of complex claims employing discretion and</p> <p>3 independent judgment; correct?</p> <p>4 A I don't know if I added it or took it off</p> <p>5 of something else on here.</p> <p>6 Q Do you see that in Exhibit-14, that</p> <p>7 language?</p> <p>8 A Well, I didn't take it just off of here.</p> <p>9 I also took it off of the -- the, um, evaluation</p> <p>10 that I got from the three years that I was there.</p> <p>11 Q You would agree with me that -- strike</p> <p>12 that.</p> <p>13 A few minutes ago you testified that</p> <p>14 in putting together Exhibit-11 that you were in a</p> <p>15 hurry, so you basically took the language from the</p> <p>16 job description; correct?</p> <p>17 A Yes. But not all of it. I got it from</p> <p>18 different places.</p> <p>19 Q And some of it --</p> <p>20 A I just needed to get something to him that</p> <p>21 day.</p> <p>22 Q And some of it you added on your own; is</p> <p>23 that right?</p> <p>24 A Yeah. Yeah. Absolutely.</p> <p>25 Q Okay. So the job description, which we're</p>
<p style="text-align: right;">179</p> <p>1 M. ESTRADA</p> <p>2 comparing data." Do you see that?</p> <p>3 A Yes.</p> <p>4 Q If you look at Exhibit-14, under</p> <p>5 "essential duties and responsibilities," the second</p> <p>6 paragraph starts with "compare data." Is that</p> <p>7 right?</p> <p>8 A Correct.</p> <p>9 Q So would it be fair for me to conclude</p> <p>10 that you added the words "primary functions</p> <p>11 include"?</p> <p>12 A Correct.</p> <p>13 Q And then you -- instead of compare, you</p> <p>14 had comparing data; is that right?</p> <p>15 A Yes.</p> <p>16 Q And then you took the language from</p> <p>17 Exhibit-14, the rest of the language in that</p> <p>18 paragraph up through and under insurance contract;</p> <p>19 is that right?</p> <p>20 A Yes.</p> <p>21 Q And you put from "compare data" to under</p> <p>22 "an insurance contract" into Exhibit-11; correct?</p> <p>23 A Correct.</p> <p>24 Q And then you added the following language:</p> <p>25 And the investigation, evaluation, and negotiation</p>	<p style="text-align: right;">181</p> <p>1 M. ESTRADA</p> <p>2 looking at as Exhibit-14, does not include the</p> <p>3 language, "And the investigation, evaluation, and</p> <p>4 negotiation of complex claims employing discretion</p> <p>5 and independent judgment." Is that right?</p> <p>6 A That's correct.</p> <p>7 Q And then the next paragraph in your</p> <p>8 resume, Exhibit-11, that says, "Handle complex</p> <p>9 claims matters involving various commercial lines of</p> <p>10 automobile insurance within the states of</p> <p>11 California, Colorado, Florida, Idaho, Kansas,</p> <p>12 Minnesota, Montana, North Dakota, Nebraska, Nevada,</p> <p>13 Oregon, South Dakota, Utah and Washington," that's</p> <p>14 also language that you added; correct?</p> <p>15 A I'm sorry. That was the second bulletin?</p> <p>16 (sic)</p> <p>17 Q The second bullet.</p> <p>18 A Yeah. That was the second bulletin (sic)</p> <p>19 off of United Auto, because it was the same type of</p> <p>20 job, essentially. So I just -- like I said, I took</p> <p>21 it from different places.</p> <p>22 Some of it was -- I took from here,</p> <p>23 the work that I did at United Auto and stuck it up</p> <p>24 there.</p> <p>25 Q Because it was the same kind of work that</p>

<p style="text-align: right;">182</p> <p>1 M. ESTRADA</p> <p>2 you were doing?</p> <p>3 A Right.</p> <p>4 Q Okay. And when you say that you took it</p> <p>5 from United Auto, when we were looking a few minutes</p> <p>6 ago at your first resume that we marked as</p> <p>7 Exhibit-15, which you testified was accurate, you</p> <p>8 took language from -- you used language about your</p> <p>9 job at United Auto and put it into Exhibit-11, and</p> <p>10 then used that language to further describe your job</p> <p>11 at the defendant; correct?</p> <p>12 A Yeah.</p> <p>13 Q And you would agree with me that the</p> <p>14 second bullet point under the description of your</p> <p>15 job at the defendant is language that you added;</p> <p>16 correct?</p> <p>17 A From this United Auto Insurance.</p> <p>18 Q Well, you took it from -- because it was</p> <p>19 something that you did at both places?</p> <p>20 A Right.</p> <p>21 Q Okay. And now the third bullet, that</p> <p>22 seems to come, again from Exhibit-14, from the job</p> <p>23 description; the fourth and fifth paragraphs under</p> <p>24 "essential duties and responsibilities." Correct?</p> <p>25 A Correct.</p>	<p style="text-align: right;">184</p> <p>1 M. ESTRADA</p> <p>2 Q And that also describes something else</p> <p>3 that you did -- another product that you say that</p> <p>4 you created; correct?</p> <p>5 A Yes.</p> <p>6 MS. BLOOM: Thank you very much.</p> <p>7 Subject to a court ruling on the things</p> <p>8 that you were directed not to answer, I have no</p> <p>9 further questions at this time.</p> <p>10 THE WITNESS: Thank you.</p> <p>11 MS. COHEN: We reserve our questions at</p> <p>12 time of trial.</p> <p>13 MR. WILEY: We're done.</p> <p>14 MS. BLOOM: That's fine. As long as you</p> <p>15 understand what that means under the federal</p> <p>16 rules, that's fine with me.</p> <p>17 MR. WILEY: We'll read.</p> <p>18 (Witness excused.)</p> <p>19 (The deposition is adjourned at 2:58 p.m.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">183</p> <p>1 M. ESTRADA</p> <p>2 Q And then the fourth bullet on Exhibit-11</p> <p>3 that starts, "Created a standardized total loss</p> <p>4 evaluation form that has saved the company thousands</p> <p>5 of dollars in total loss negotiations." You added</p> <p>6 that bullet; correct?</p> <p>7 A Correct.</p> <p>8 Q And that's the form that you described</p> <p>9 earlier today; correct?</p> <p>10 A That's correct.</p> <p>11 Q And you go on to say in that bullet, "This</p> <p>12 form has a success rate of nine out of ten agreeing</p> <p>13 to the total loss offer amount presented with</p> <p>14 minimal negotiations needed."</p> <p>15 That's your language; correct?</p> <p>16 A Correct.</p> <p>17 Q So by using your form, that basically --</p> <p>18 that minimized the amount of negotiation that the</p> <p>19 claims examiners needed to engage in; correct?</p> <p>20 A Correct.</p> <p>21 Q And then the last bullet, "Created a zip</p> <p>22 code or by state searchable workbook for independent</p> <p>23 appraisal companies," you added that entire bullet,</p> <p>24 as well; isn't that right?</p> <p>25 A That's correct.</p>	<p style="text-align: right;">185</p> <p>1 C E R T I F I C A T I O N</p> <p>2</p> <p>3 I, CORINNE J. BLAIR, a Certified</p> <p>4 Realtime Reporter, Certified Professional Reporter,</p> <p>5 Certified Livenote Reporter, and Notary Public, do</p> <p>6 hereby certify:</p> <p>7 That MICHAEL ESTRADA, the witness,</p> <p>8 whose deposition is hereinbefore set forth, was duly</p> <p>9 sworn by me and that such deposition is a true</p> <p>10 record of the testimony given by such witness.</p> <p>11 I further certify that I am not</p> <p>12 related to any of the parties to this action by</p> <p>13 blood or marriage and that I am in no way interested</p> <p>14 in the outcome of this matter.</p> <p>15</p> <p>16</p> <p>17</p> <p>18 CORINNE J. BLAIR,</p> <p>19 CRR, CCR, RPR, CLR</p> <p>20 License # X01641</p> <p>21 Expires 6/30/14</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26 Dated: _____</p>